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HOUSE MEMORIAL 106

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

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A MEMORIAL

REQUESTING STATE AGENCIES AND THE ATTORNEY GENERAL TO REVIEW
THE PROCESSES USED TO REVIEW AND APPROVE STATE CONTRACTS AND TO
MAKE RECOMMENDATIONS FOR IMPROVING THOSE PROCESSES.

WHEREAS, pursuant to a rule promulgated by the department
of finance and administration, the office of the attorney
general used to review for "legal form and sufficiency" all
professional services contracts entered into with state
agencies that were in excess of two hundred fifty thousand
dollars (\$250,000), which rule has now been repealed; and

WHEREAS, since the repeal of the rule requiring the review
of professional services contracts by the attorney general,
state agencies have not had any independent review of their
professional services contracts by a non-agency state officer;
and

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1 WHEREAS, the department of finance and administration
2 oversees, reviews and approves a large number of state agency
3 contracts; and

4 WHEREAS, the general services department and its
5 purchasing division handle a large number of state agency
6 contracts; and

7 WHEREAS, large state agencies such as the department of
8 health, the human services department and the department of
9 transportation also handle a large number of state agency
10 contracts; and

11 WHEREAS, there is concern about so-called pay-to-play
12 contracts and whether there is sufficient independent review of
13 the state's contracting and review processes; and

14 WHEREAS, there is concern about the number of state
15 agencies that are exempt from the Procurement Code, its
16 required competitive bid processes and whether those exemptions
17 should continue to apply; and

18 WHEREAS, there is concern about the lack of oversight
19 review of sole source and emergency contracts, and about the
20 justifications and necessity for proceeding with such contracts
21 without oversight review; and

22 WHEREAS, an efficient electronic review system for all
23 state contracts would be a desirable resource for tracking
24 those contracts; and

25 WHEREAS, whether the office of the attorney general or

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1 another method of checks and balances should be in place to
2 review state agency contracts is an issue worthy of
3 consideration, provided that there are sufficient resources to
4 provide for the review, and provided further that the review
5 would not unduly delay the state contracting processes,
6 particularly for legitimate emergency requests;

7 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
8 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the office of
9 the attorney general, the department of finance and
10 administration, the general services department and other state
11 agencies actively involved in the processing of state contracts
12 be requested to meet together to review issues related to the
13 oversight and review of state contracts and make
14 recommendations to the legislature on how best to proceed to
15 protect the integrity of the state contracting process; and

16 BE IT FURTHER RESOLVED that copies of this memorial be
17 transmitted to the governor, the attorney general, all cabinet-
18 level department heads and the director of the legislative
19 finance committee.

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